

CASE MANAGEMENT PROCEDURES

The Honorable Michael H. Watson
United States District Judge
Southern District of Ohio - Eastern and Western Divisions

A. Trial Assignments - Trailing Docket

The Court utilizes a modified “trailing docket.” Multiple cases will be scheduled for trial during each setting. Criminal cases may also be scheduled and will take precedence under the Federal Speedy Trial Act. As to civil cases, the Court will determine which case shall proceed. If your case does not proceed, it will be rescheduled. If your case settles, you must immediately notify the Court.

NOTE: Should a case settle after 12:00 p.m. on the business day immediately preceding the trial date, the Court may assess against either or both parties the costs of summoning a jury. A case will be considered settled for the purposes of this provision when notice thereof is given to the Court. A hearing may be held before such costs are assessed, if requested by the parties.

If, for any reason, counsel wish to have their case advanced for trial to the earliest available date, they may contact the Courtroom Deputy to be placed on a “standby” list. Should any trial setting be vacated by a settlement or continuance of other trials, counsel would be contacted to determine whether they wish to utilize the newly available time slot.

B. CONTINUANCE OF TRIAL

Continuances generally may be granted for demonstrated illness of a trial counsel or party. The Court reserves the right to deny a continuance for any other reason.

C. DISCOVERY¹

Neither counsel nor the parties shall presume that a pending motion relieves them of their obligation to conduct discovery within the deadlines set forth by the case schedule.

¹Under Fed. R. Civ. P. 26(a)(1)(E), the following categories of cases are exempt from the requirements for a discovery conference, a discovery plan, and mandatory disclosure: (i) an action for review of an administrative record (e.g. Social Security benefits and certain ERISA cases), (ii) a petition for habeas corpus, (iii) a *pro se* prisoner action, (iv) an action to enforce or quash an administrative subpoena, (v) an action by the United States to recover benefit payments, (vi) a government student loan case, (vii) a proceeding ancillary to actions in other courts, and (viii) an action to enforce an arbitration award.

1. Discovery Conference

As soon as all counsel are identified, but in any event no later than receipt of notice of the preliminary pretrial conference, all counsel shall agree on a date for the discovery conference required by Fed. R. Civ. P. 26(f), which must be held no later than twenty-one (21) days before the Preliminary Pretrial Conference.

2. Joint Discovery Plan

Following the discovery conference, the parties shall file the discovery plan required by Fed. R. Civ. P. 26(f) within fourteen (14) days after the discovery conference. The plan must include the parties' views and proposals concerning:

- (a) what changes should be made in the timing, form, or requirement for disclosures under Rule 26(a) including a statement as to when disclosures under Rule 26(a)(1) were made or will be made;
- (b) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues;
- (c) what changes should be made in the limitations on discovery imposed under these rules or by local rule, and what other limitations should be imposed; and
- (d) any other orders that should be entered by the Court under Fed. R. Civ. P. 26(c) or under Fed. R. Civ. P. 16(b) and (c).

3. Mandatory Disclosure

Unless otherwise agreed in the discovery plan, the parties shall make the disclosures required by Fed. R. Civ. P. 26(a)(1) within fourteen (14) days after the discovery conference.

4. Discovery Deadline

Discovery shall be initiated so as to enable the opposing party to serve a response within the period allowed by the rules but in advance of the discovery deadline. Discovery requested before the discovery cutoff deadline, but not scheduled for completion before the discovery closing date, does not comply. No depositions may be scheduled to occur after the discovery cutoff date.

Discovery may continue beyond the cutoff date by agreement of counsel, or by order of the Court. No supervision or intervention by the Court, such as Loc. R. 37 proceeding, will occur after the cutoff date without a showing of extreme prejudice. No trial date will be vacated because of information acquired in post-cutoff discovery.

5. Discovery Disputes

This Court does not permit discovery motions, i.e. motions to compel or motions for protective order regarding discovery disputes, unless and until counsel use the following procedure. Counsel must first attempt to resolve disputes by extrajudicial means, as required by Loc. R. 37.2. This Court defines “extrajudicial means” as requiring counsel to try to resolve the matter both in writing and telephonically. If counsel are unable to resolve the dispute between themselves, then they must call the Court and a telephone conference with all counsel and the Court will be scheduled as soon as possible.

If a discovery motion is filed, they must comply with Loc. R. 37.1 and 37.2 or they will not be accepted. Attorney’s fees will normally be assessed against the losing party pursuant to Fed. R. Civ. P. 37. If a pending discovery motion should jeopardize a trial date, counsel shall notify the Court or the Magistrate Judge assigned to the case, whichever is appropriate.

D. *Pro Hac Vice*

Counsel admitted to practice before the highest court of any state may move to be admitted in the Southern District of Ohio for purposes of appearance in a specific case. Counsel must attach to the motion for admission *pro hac vice* a Certificate of Good Standing issued by the highest court of any state, and the appropriate filing

fees. See Loc. R. 83.5. Permission will be conditional only and may be withdrawn at anytime. See *Leis v. Flynt*, 439 U.S. 438 (1979).

Counsel admitted *pro hac vice* shall obtain local counsel who is familiar with the procedures in the Southern District of Ohio. Counsel admitted *pro hac vice* are also expected to familiarize themselves with, and to follow, the Southern District of Ohio Local Rules, as well as all standing orders of the Court.

E. MOTIONS

1. Page Limitations

Briefs and/or memoranda in support of or in opposition to any motion in this Court shall not exceed twenty (20) pages without first obtaining leave of Court. Leave of Court shall be sought prior to the filing of the motion and/or memoranda.

If leave of Court is granted, counsel must include:

- (a) a table of contents indicating the main sections of the memorandum, the arguments made in each section, and the pages on which each section and subsection may be found; and
- (b) a succinct, clear, and accurate summary not to exceed five (5) pages of the principal arguments made and citations to the primary authorities relied upon in the memorandum. The parties shall provide an appendix including copies of all out-of-state decisions and all unpublished decisions. All briefs and memoranda shall comply with the formal requirements of Loc. R. 7.2.

2. Hearings

Other than motions required by law to be set for a hearing, with notice given to all counsel, and motions upon which a specific request for a hearing has been made and granted by the Court, all motions shall be submitted without oral argument on the memoranda filed with the Clerk, on the schedule set forth in Loc. R. 7.2. unless otherwise ordered.

3. Courtesy Copies

Courtesy copies of motions to dismiss and motions for summary judgment, responsive pleadings thereto, and exhibits, shall be provided to the Clerk, including exhibits, at the time of filing, for delivery to the Court. Courtesy copies of final pretrial statements, jury instructions, trial briefs, trial motions, and motions *in limine* shall be hand-delivered to chambers at the time of the

filing with the Clerk.

F. DEPOSITIONS

If a party files a motion, which is supported by deposition testimony, the party shall file a complete deposition transcript. Additionally, the party shall file an original, hard copy, of the deposition with the Clerk.

G. SETTLEMENT CONFERENCE

In an effort to encourage settlements, the Court may schedule a settlement conference at anytime. Counsel also may request that a conference be scheduled at anytime when it appears such a conference would be fruitful. Attorneys attending settlement conferences must bring the party or a principal with full settlement authority. Failure to comply with this requirement will result in sanctions.

By full settlement authority, the Court means the person or persons attending must have the authority independently to make necessary financial and settlement decisions.

One (1) week prior to the settlement conference, counsel for each party shall prepare and submit, either via hand delivery to the Court or via the Court's email address, watson_chambers@ohsd.uscourts.gov, a letter, no longer than five (5) pages, containing a synopsis of the case and the status of settlement negotiations to date. The letters **ARE NOT** to be filed with the Clerk's Office and are not to be exchanged with opposing counsel.

H. FINAL PRETRIAL CONFERENCE

Approximately thirty (30) days prior to the trial date, a Final Pretrial Conference will be held. At least ONE (1) WEEK before the Final Pretrial Conference, counsel shall submit to the Court's chambers, an original jointly prepared proposed Final Pretrial Order and two (2) copies. Additionally, counsel will submit a brief joint statement of facts to be read to the Jury in the Final Pretrial Order. All trial counsel must be present at the Final Pretrial Conference. Attorneys not present at the Final Pretrial Conference may not participate at trial.

All parties must bring, in person, a principal with full settlement authority to the Final Pretrial Conference.

In the event that counsel agree to submit the entire case on cross-motions for summary judgment, the Final Pretrial Conference and trial date will be vacated.

G. FINAL PRETRIAL ORDER - REQUIRED FORM

Counsel are **required** to submit a proposed Joint Final Pretrial Order to the Court no later than ONE (1) WEEK prior to the Final Pretrial Conference. Counsel are required to follow the Final Pretrial Order format at <http://www.ohsd.uscourts.gov/fpwatson.htm>.

It is counsels' duty to confer, when practical, in person or by telephone, in a good faith effort to reach an agreement on all items referred to in the Final Pretrial Order. The purpose is to eliminate all items in dispute, and, thus, resolve all disputed items before the Final Pretrial Conference.

H. TRIAL BRIEFS

Trial briefs must be filed with the Court and served upon opposing counsel within ONE (1) WEEK after the Final Pretrial Conference, but in no event, later than noon of the business day preceding trial. All briefs shall be in full compliance with Loc. Rule 5.1. All references and citations shall conform to Loc. Rule 7.2(b). Counsel should utilize their trial briefs to instruct the Court in advance of trial in any area of the law upon which counsel will rely at trial. Therefore, the trial briefs should contain arguments with citations to legal authority in support of any evidentiary questions and any other legal questions which may be reasonably anticipated to arise at trial.

In non-jury trials, proposed findings of fact and conclusions of law shall be incorporated into the trial brief.

In all cases, trial briefs are to be exchanged with opposing counsel by hand delivery or facsimile.

I. TRIAL MOTIONS AND MOTIONS *IN LIMINE*

Any trial motions should be filed with the Clerk of Courts and served upon opposing counsel within ONE WEEK after the final pretrial conference. Motions filed thereafter will not be considered except upon a showing of good cause.

Daubert Motions. Any motions *in limine* addressed to the admissibility of expert testimony under *Daubert*, if not included in a previously filed motion for summary judgment, shall be filed at least FORTY-TWO (42) DAYS prior to the final pretrial conference. Responses to such motions shall be filed not later than THIRTY-FIVE (35) DAYS prior to the Final Pretrial Conference. No replies will be filed unless otherwise ordered by the Court.

In all cases, trial motions and motions *in limine* are to be exchanged with opposing counsel by hand delivery or facsimile.

J. JURY INSTRUCTIONS

Counsel shall exchange proposed jury instructions no later than FOURTEEN (14) DAYS prior to the Final Pretrial Conference. Counsel shall then confer regarding their respective proposals in an effort to reach an agreement regarding as many jury instructions as possible.

SEVEN (7) DAYS prior to the Final Pretrial Conference, the parties shall jointly submit a complete set of jury instructions, indicating 1) agreed instructions; 2) instructions proposed by plaintiff, but opposed by defendant; and 3) instructions proposed by defendant, but opposed by plaintiff. All proposed jury instructions shall be submitted in hard copy and to the Court email address at watson_chambers@ohsd.uscourts.gov. Each instruction should be submitted in WordPerfect for Windows 6.1 or later, on a separate 8.5" x 11" sheet of paper identified as "Plaintiff(s) [Defendant(s)] Requested Instruction No. ____." All proposed instructions shall be supported by citations to authority at the time submitted to the Court. Grounds for objections need not be articulated at this time, but will be addressed at the Final Pretrial Conference. If counsel wish to utilize special verdict forms or submit interrogatories to the jury, these should also be filed along with the jury instructions. The original of the request for special instructions must be filed with the Clerk of Court, prior to presentation to the Court.

K. SANCTIONS FOR NON-COMPLIANCE

Counsel are expected to comply literally with these case management procedures. The Court will consider the imposition of appropriate sanctions in the event of non-compliance, specifically, failure of counsel to comply with these procedures